**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**
**CRIMINAL APPLICATION NO.7231 OF 2005**
**IN**
**CRIMINAL APPEAL NO.108 OF 2005**

Sudarshan @ Babu Motilal Gupta ...Applicant
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.C.K.Pendse h/f Mr.M.K.Kocharekar for the Applicant
Ms S.V.Gajare, A.P.P. for State

**CORAM: A.S.OKA,J.**
**DATE : NOVEMBER 20,2006.**

**P.C.:**

1. This Application is filed by the applicant through jail.

Earlier order dated 11th September 2006 passed by this Court reads thus :

"1. An Application dated 17th August 2005 has been received purportedly signed by the Appellant in Criminal Appeal No.108 of 2005. The Application records that the Applicant desires to withdraw the Appeal. The Application is not attested by the Superintendent of the concerned Jail. It appears that the Appellant is lodged in Kolhapur Central Prison, Kolhapur.

2. The Superintendent of Kolhapur Central Prison will personally verify from the Appellant whether he really intends to withdraw the Appeal. If the Superintendent is satisfied that the Appellant really desires to withdraw the Appeal and the Appellant is aware of the consequences of withdrawal of the Appeal, he will take a fresh Application in that behalf from the Appellant and after attesting the same he will submit it to this Court.

3. S.O. till 16th October 2006.

4. The learned A.P.P will forward a copy of this order to the Superintendent of the Kolhapur Central Prison."

Further order dated 16th October 2006 reads thus :

"1. Perused the report submitted by the Superintendent of Kolhapur Central Prison. It is obvious that no compliance has been made with Clause 2 of order

> dated 11th September 2006. The learned A.P.P is directed to explain to the Superintendent of Kolhapur Central Prison the steps he is required to take in terms of clause 2 of order dated 11th September 2006.
>
> 2. Office to place the application on High on board on 14th November 2006."

2. Today, the Superintendent of Kolhapur Central Prison has submitted a report along with the Application dated 23rd October 2006 duly signed by the Applicant. The Officer of the jail has made an endorsement on the said Application to the effect that the same is signed in his presence. The said Application dated 23rd October 2006 records that the Superintendent of the jail informed the Applicant about the consequences of withdrawal of the Appeal. The Applicant has stated in the said Application that the earlier Application which is received by this court seeking permission to withdraw the Appeal has been signed by him. He has reiterated that he wants to withdraw the Appeal and he has no grievance against anyone. He has stated that the concerned Officer of jail has explained to him that if the Appeal is withdrawn, he cannot be released unless he undergoes the entire sentence as per the impugned Judgment and Order.

3. The Application dated 23rd October 2006 along with other documents submitted by the learned A.P.P. are taken on record and marked ‘X’ for identification.

4. In view of this, the Applicant is permitted to withdraw

the Appeal. Appeal No.108 of 2005 is dismissed as withdrawn.

**JUDGE**